

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**MICHAEL HERBERT COLTER**

**PETITIONER**

**VS.**

**CIVIL ACTION NO. 4:09cv170 TSL-LRA**

**SUPERINTENDENT LAWRENCE KELLY,  
WARDEN ROBERT SCOTT and ATTORNEY  
GENERAL OF THE STATE OF MISSISSIPPI**

**RESPONDENTS**

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**ORDER**

This cause came on this date to be heard upon the report and recommendation of United States Magistrate Judge Linda R. Anderson, and the court, having fully reviewed the report and recommendation entered in this cause on January 21, 2011, and being duly advised in the premises, finds that said report and recommendation should be adopted as the opinion of this court.

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate Judge Linda R. Anderson entered on January 21, 2011, be, and the same is hereby adopted as the finding of this court, that the [9] motion to dismiss filed by respondents is granted, and the petition for writ of habeas corpus is hereby dismissed without prejudice.

A separate judgment will be entered herein in accordance with this order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this the 10th day of February, 2011.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE